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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,971	03/19/2001	Warren Edward Baxley	199-0242US	9998
7590	06/17/2005		EXAMINER	
TERRIL G. LEWIS WONG CABELLO, LLP 20333 S.H. 249 SUITE 600 HOUSTON, TX 77070			LIN, WEN TAI	
			ART UNIT	PAPER NUMBER
			2154	
DATE MAILED: 06/17/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/812,971	BAXLEY ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Wen-Tai Lin	2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 14 April 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 20-23 is/are allowed.

6)  Claim(s) 1-4,6,9-14 and 19 is/are rejected.

7)  Claim(s) 5,7,8,10 and 15-18 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

1. Claims 1-23 are presented for examination.
2. Claims 20-23 are allowable because the prior art of record does not teach or suggest individually or in combination a method for tuning the allocation of multipoint control unit resources for multipoint network events such as video conferencing by establishing a statistical, self-tuning model on the multipoint network events, wherein predetermined tuning intervals are used to measure and normalize the actual utilization of MCU resources in comparison with accumulated multipoint network events, and determine a probability value for future use of MCU resources based on the measured past events and their respective resource utilization.

### ***Claim Rejections - 35 USC § 101***

3. Claims 1 and 4-5 are rejected under 35 U.S.C. 101 because the language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. Specifically, it is perceived that the

recited method can be performed by a person, as a mental step or using pencil and paper, to decide the number of MCU ports in response to a request over the phone.

4. Claims 1-5 and 9-18 are objected to because of the following issues/informalities:

- i. The term "the maximum MCU ports" in claim 1 appears to lack antecedent basis.
- ii. As to claims 2-3, it is confusing to say that the allocation request could originate in either the plurality of MCUs or a common channel signaling interface because the so called requests are actually due to inbound calls that are received by these entities [see Applicant's Figs. 1-2]. Accordingly, the real "originator" of the request should be the inbound callers, instead of these intermediate entities.
- iii. As to claim 9, it appears that the feature "allocating the number of resources, to at least one MCU, debiting the allocated resources from the available MCU capacity, directing inbound users to the at least one MCU for participation in the multipoint network event" (lines 11-14 of claim 9) applies no matter whether the multipoint network event can be started or not. However, such assumption appears to be of no contingency to the determining step at lines 6-10. For the prior art rejection in this office action, the steps performed at lines 11-14 are being construed as contingent to a determination that the multipoint network event can be started.

5. The text of those sections of Title 35, USC code not included in this action can be found in the prior Office Action.

***Claim Rejections - 35 USC § 102***

6. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Biggs; et al.[U.S. Pat. No. 5625407].

7. As to claim 9, Biggs; teaches the invention as claimed including: a method for allocating resources for a multipoint network event, said method comprising the steps of:

obtaining available MCU capacity in a plurality of MCUs [col.16, lines 13-19], receiving an allocation request from an allocation requestor for the multipoint network event [col.16, lines 1-13];

determining based on the received allocation request whether the multipoint network event can be started [col.17, lines17-19], if the multipoint network event can be started, the number of resources to allocate to start the multipoint network event [col.3, lines 29-37], and, if the multipoint network event cannot be started, then informing the allocation requestor that the multipoint network event cannot be started [811, Fig.8A; col.17, lines 19-21];

if the multipoint network event can be started, allocating the number of resources to at least one MCU, debiting the allocated resources from the available MCU capacity,

directing inbound users to the at least one MCU for participation in the multipoint network event [col.20, lines 1-36].

***Claim Rejections - 35 USC § 103***

8. Claims 1-4 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biggs et al.(hereafter "Biggs;") [U.S. Pat. No. 5625407], as applied to claim 9 above, further in view of Official Notice.
9. As to claim 1, Biggs; teaches the invention substantially as claimed including: a method for allocating MCU ports for a multipoint network event, said method comprising:
  - receiving an allocation request for the multipoint network event, said request at least associated with a number for the maximum MCU ports for the multipoint network event [col.3, lines 29-37; 700, Fig.7; col.16, lines 1-19]; and
  - determining the number of MCU ports to allocate at the start of the multipoint network event [col.5, lines 33-38; col.20, lines 1-6; Figs. 8A-8B; i.e., the MCU ports allocation for the start of a conference is based on the actually number of users at the start of the event].Biggs; did not specifically teach that the start MCU resources allocation number is less than or equal in value than the maximum MCU ports number.

However, Official Notice is taken that it is a well-known practice not to assign resource amount more than what is being requested. Therefore, it is obvious to maintain such a practice in Biggs's system because an over-booked system tends to spend additional time resolving resource conflicts and would thus substantially degrade the system performance and efficiency.

10. As to claim 2, Biggs further taught that the step of receiving the allocation request originates in the plurality of MCUs [e.g., col.17, lines 17-35; i.e., a request may originate in an MCU when the MCU is unavailable; the latter then provide an address for another MCU].

11. As to claim 3, Biggs further teaches that the step of receiving the allocation request originates in a common channel signaling interface [col.20, lines 1-6; i.e., under the notion of dynamic allocation, when a new party joined the conference, new allocation of MCU ports may be required when all the currently used MCU ports are occupied. As such, the request for allocation may originate from wherever the incoming calls are detected, such as a common channel signaling interface].

12. As to claim 4, Biggs further teaches that the step of receiving the allocation request originates as an external allocation request [col.3, lines 3-37].

13. As to claims 11-13, since the features of these claims can also be found in claims 1-4 and 9, they are rejected for the same reasons set forth in the rejection of claims 1-4 and 9 above.

14. Claims 6, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biggs et al.(hereafter "Biggs")[U.S. Pat. No. 5625407], as applied to claims 1-4, 9 and 11-13 above, further in view of Yang et al.(hereafter "Yang") [U.S. Pat. No. 6192243].

15. As to claim 6, Biggs teaches the invention substantially as claimed including: a method for dynamical allocation of MCU resources during a multipoint network event [page 5, lines 24-26], said method comprising the steps of:

determining the number of MCU resources to allocate for the start of the multipoint network event [page 6, line 36 - page 7, line 13].

Biggs does not specifically teach a method for time varying allocation of MCU resources during a multipoint network event, wherein at each of a plurality of modeling intervals during the multipoint network event, adjusting the number of allocated MCU resources based on users actually in the multipoint network event.

However, Yang taught a method of adjusting the number of allocated resources as a time-varying event based on a plurality of modeling intervals [col.3, lines 35-55; col.8, line 41 - col.9, line 24].

It would have been obvious to combine the teachings of Biggs and Yang, because Yang's time-varying modeling based on pre-selected time intervals would make Biggs' resource allocation method dynamically reflecting the true usage of resources for the entire event.

16. As to claims 14 and 19, since the features of these claims can also be found in claims 6 and 9, they are rejected for the same reasons set forth in the rejection of claims 6 and 9 above.

17. Claims 5, 7-8, 10 and 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if overcome the rejection/objection stated at paragraphs 3-4 and rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Applicant's arguments with respect to claims 1-4, 6, 9, 11-14 and 19 on 4/14/2005 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday (8:00-5:00) .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone

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numbers for the organization where this application or proceeding is assigned are as follows:

(703)872-9306 for official communications; and

(571)273-3969 for status inquires draft communication.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wen-Tai Lin

June 14, 2005

  
6/14/05